

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE LEASE AMENDMENT	LEASE AMENDMENT No. 3
ADDRESS OF PREMISES 250 Delaware Avenue Buffalo, NY 14202-2014	TO LEASE NO. GS-02P-LNY24174 PDN Number: N/A

THIS AMENDMENT is made and entered into between **DNC 250, Inc.**

whose address is: 100 Corporate Parkway, Suite 500, Amherst, New York 14226

hereinafter called the Lessor, and the **UNITED STATES OF AMERICA**, hereinafter called the Government:

WHEREAS, the Government commenced the Lease (the "Lease") on April 1, 2017 (the "Lease Award Date"); and

WHEREAS, Lease Amendment Number 2 to the Lease set forth the lease commencement date as April 1, 2017 (the "Lease Commencement Date"); and

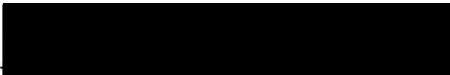
WHEREAS, the parties hereto acknowledge and agree that they were certain delays caused by the Government during the design and construction phases prior to the Lease Commencement Date; and

WHEREAS, the Lessor submitted a claim for delays and equitable compensation dated, January 25, 2017 (the "Delay Claim") in which the Lessor requested payment from the Government. The compensation requested is for Government caused delays that impacted the Government's acceptance of the Lease space as substantially complete, thereby causing a delay to

This Lease Amendment contains (17) pages.

IN WITNESS WHEREOF, the parties subscribed their names as of the below date.

FOR THE LESSOR:

Signature: 


Name: MICHAEL J. MONTANTE

Title: VICE PRESIDENT

Entity Name: DNC 250, INC.

Date: 8/25/2017

FOR THE GOVERNMENT:

Signature: 

Name: Mary Nowobilski

Title: Lease Contracting Officer

GSA, Public Buildings Service

Date: August 28, 2017

WITNESSED FOR THE LESSOR BY:

Signature: 

Name: LYUBOV GOLEVA

Title: SALES SECRETARY

Date: 8/25/2017

MTJ

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the Lease Commencement Date. The parties have agreed that the total equitable adjustment due for the Delay Claim is \$284,899.46; and

WHEREAS, it is the intent of the parties hereto to amicably settle the Delay Claim to resolve all outstanding cost and rental issues that occurred during the timeframe between the Lease Award Date and the Lease Commencement Date.

WHEREAS, the parties hereto desire to amend the above Lease to establish the Broker Commission and Commission Credit.

NOW THEREFORE, for the consideration hereinafter mentioned covenant and agree that the said Lease is amended effective as of the day hereof, as follows:

1. The parties hereto acknowledge and agree that in full accord and satisfaction of the Delay Claim, the Government shall pay to the Lessor the amount of \$284,899.46. This will be paid by way of:

- a. The Free Rent Offered, as defined in Lease Paragraph 1.03 B, is modified and replaced as follows:

Free Rent Offered: Months 1, 2, and 3 of the initial lease term, each month of free rent equals \$126,700.46; therefore the balance of the monthly rent for the first three months of the Lease will be \$35,329.48 which accounts for the sum of the Tenant Improvements and the Building Specific Amortized Capital portion of the monthly rent. This sub-paragraph has been modified so that the Free Rent Offered in the Lease of four (4) months of free rent is hereby reduced to three (3) months so that the value of the fourth month of free rent can be applied towards the settlement of the Lessor's Delay Claim.

- b. The balance of the Delay Claim is paid to the Lessor in a one-time lump sum payment of \$158,199.00.

2. The Broker Commission and Commission Credit, as defined in Lease Amendment #2, is modified and replaced as follows:

1.04 BROKER COMMISSION AND COMMISSION CREDIT (JUN 2012)

A. **Savills Studley, Inc.** (Broker) is the authorized real estate Broker representing GSA in connection with this Lease transaction. The total amount of the Commission is [REDACTED] and is earned upon Lease execution, payable according to the Commission Agreement signed between the two parties. Only [REDACTED] of the Commission will be payable to **Savills Studley, Inc.**

B. The remaining [REDACTED] will not be applied as the Commission Credit; rather the Commission Credit memorialized in No. 5 of Lease Amendment No. 2 executed on July 13, 2017, shall be applied as said Commission Credit. Therefore, [REDACTED] is to be credited to the shell rental portion of the annual rental payments due and owing to fully recapture this Commission Credit. The reduction in shell rent shall commence in month four (4) of the Lease rental payments and continue until the credit has been fully recaptured in equal monthly installments over the shortest time practicable.

C. Notwithstanding the "Rent and Other Consideration" paragraph of this Lease, the shell rental payments due and owing under this Lease shall be reduced to recapture fully this Commission Credit. The reduction in shell rent shall commence with the first month of the rental payments and continue as indicated in this schedule for adjusted Monthly Rent:

Month 1 Rental Payment **\$35,329.48.**

Month 2 Rental Payment **\$35,329.48.**

Month 3 Rental Payment **\$35,329.48.**

(END OF FREE RENT PERIOD)

INITIALS: MSJ & mm
LESSOR GOVT

Month 4 Rental Payment **\$162,029.94** minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted 4th Month's Rent.

Month 5 Rental Payment **\$162,029.94** minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted 5th Month's Rent.*

Month 6 Rental Payment **\$162,029.94** minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted 6th Month's Rent.*

3. The payments herein described account as full payment for all claims and demands for payment, past and future, that the Lessor has against the Government related to any delays, cost increases, fees or any other cost items related to Lessor's Delay Claim.
4. The Lessor and the Government hereby agree that the Government shall utilize the Sally Port Action Operations Procedures when moving a detainee(s) into or out of the facility. The Sally Port Action Operations Procedures document is attached hereto and labeled Exhibit "A".
5. Except as modified in this Lease Amendment, all terms and conditions of the Lease shall remain in full force and effect and in the event that any of the terms and conditions of this Lease Amendment conflict with any terms and conditions of the Lease, the terms and conditions of this Lease Amendment shall control and govern.

INITIALS: MD & ma
LESSOR GOV'T